

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18 cr 35-2**

UNITED STATES OF AMERICA

v.

EUNIQUE O'NEIL WATERS,

Defendant.

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ORDER

This matter is before the Court following a Rule 11 proceeding that was held on June 15, 2018. Defendant was present with his attorney Jack W. Stewart Jr., and the Government was present and represented through AUSA John Pritchard. After hearing arguments from Defendant and the Government and reviewing the records, the Court makes the following findings.

Findings. On April 3, 2018, the grand jury returned a bill of indictment charging Defendant with two counts of possession of a controlled substance with intent to distribute, in violation of 21 U.S.C. § 841(a)(1); one count of possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A); and one count of being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). On June 15, 2018, the Court held a Rule 11 inquiry and accepted Defendant's plea of guilty to count two of the bill of indictment. Following the Rule 11 proceeding, the Court was presented with the issue of whether Defendant should now be detained, pursuant to 18 U.S.C. § 3143(a)(2).

Discussion. 18 U.S.C. § 3143(a)(2) provides as follows:

(2) The judicial officer shall order that a person who has been found guilty of an

offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

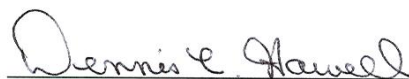
- (A) (i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or
- (ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; or
- (B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.

On June 15, 2018, Defendant pleaded guilty to 21 U.S.C. § 841(a)(1). That crime is one of the crimes enumerated under 18 U.S.C. § 3142(f)(1)(C). AUSA John Pritchard advised the Court that the Government would not be recommending that no sentence of imprisonment be imposed on Defendant. As a result, the Court cannot find that there is a substantial likelihood that a motion for acquittal or new trial will be granted. It appears then that the Court must apply the factors as set forth under 18 U.S.C. § 3143(a)(2) that require the detention of Defendant.

ORDER

IT IS, THEREFORE, ORDERED that the unsecured bond [# 17] and terms and conditions of pretrial release [# 18] entered in this matter are hereby **REVOKED** and it is **ORDERED** that Defendant shall be detained pending further proceedings in this matter.

Signed: June 15, 2018



Dennis L. Howell
United States Magistrate Judge

